

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

ALFRED TRENKLER,  
Defendant.

No. 92-cr-10369-WES

**STATUS REPORT**

The government respectfully reports on the issues raised by the Court at the chambers conference on March 15, 2021.

**A. Mr. Trenkler's Vaccination Status**

The government has been advised that Mr. Trenkler was offered the first dose of the Moderna vaccine on March 18, 2021, and declined it. A copy of his refusal form is attached hereto as Exhibit A. Undersigned counsel was contacted later in the day by counsel for Mr. Trenkler, who had heard from Mr. Trenkler and advised that he now wishes to take the vaccine. Undersigned counsel communicated that desire to the Bureau of Prisons, but by the time the medical personnel administering the vaccine had completed their rounds there were no additional doses available. The government has no information on when additional first doses of vaccine will be available at Mr. Trenkler's facility. The government understands that roughly half of the prison population at Mr. Trenkler's facility have now taken the first dose of the vaccine, and all staff have been offered the vaccine. Additionally, as of today, Arizona expanded vaccination eligibility to all people ages

16 and older.<sup>1</sup> Arizona has vaccinated approximately 25.8% of its population.<sup>2</sup> Arizona's infection rate has dropped to 0.70, with only 6.6 new cases per 100,000 people.<sup>3</sup> Only 10% of Intensive Care Unit beds in Arizona are being used by COVID-19 patients.<sup>4</sup> Fifty percent of Emergency Room beds are available.<sup>5</sup> In comparison, Maine has an infection rate of 1.07, with 15.3 new cases per 100,000 people.<sup>6</sup>

## **B. Review of Conviction**

Undersigned counsel has learned that in 2009 an attorney from Maine, Morrison Bonpasse, contacted numerous public officials, including then-United States Attorney Michael Sullivan and members of the Boston Police Department (“BPD”), regarding Mr. Trenkler’s conviction. Mr. Bonpasse had, together with Mr. Trenkler, authored a book entitled *Perfectly Innocent – The Wrongful Conviction of Alfred Trenkler*. A senior BPD official requested that the United States Attorney’s Office (“USAO”) conduct a review of the conviction based on Mr. Bonpasse’s claims, many of which have been raised in the course of litigating this motion (and in Mr. Trenkler’s prior appeals). The USAO conducted an internal review, and at the conclusion of the review then-

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<sup>1</sup> See Office of Gov. Doug Ducey, “Arizona Expands COVID-19 Vaccination Eligibility to All,” March 22, 2021, available at <https://azgovernor.gov/governor/news/2021/03/arizona-expands-covid-19-vaccination-eligibility-all>.

<sup>2</sup> See Arizona Dep’t of Health Svcs., “Hospital Bed Usage & Availability,” available at <https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/>.

<sup>3</sup> CovidActNow.org, “Arizona,” available at <https://covidactnow.org/us/arizona-az/?s=1690619> (accessed March 24, 2021).

<sup>4</sup> Arizona Dep’t of Health Svcs., “Hospital Bed Usage & Availability,” available at <https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/>.

<sup>5</sup> *Id.*

<sup>6</sup> CovidActNow.org, “Maine,” available at <https://covidactnow.org/us/maine-me/?s=1690619> (accessed March 24, 2021).

United States Attorney Carmen Ortiz announced that the USAO stood by the conviction, and then-BPD Commissioner Ed Davis announced that BPD stood by the USAO's determination. These announcements are reflected in the attached article from the Boston Herald dated December 6, 2009, which is attached hereto as Exhibit B. The USAO has not changed its position.

**C. Juror Letters**

Counsel for Mr. Trenkler has provided the Court with copies of the juror letters submitted following Mr. Trenkler's conviction. For context, it is the government's understanding that jurors who were contacted in or around 2008 or 2009 had been provided with either copies of the book or information contained in the book, some of which consists of Mr. Trenkler's version of events that was not subjected to cross-examination at the time of trial.

**D. Supplemental Expert Declaration**

The government spoke with its expert, Dr. David Goldberg, who is preparing a supplemental declaration in response to the Declaration of Dr. Abdurashheed Alabi filed on March 9, 2021. Dr. Alabi's Declaration was very dense and cited numerous medical journals, and, coupled with Dr. Goldberg's patient schedule, it has taken Dr. Goldberg more time to review than the previous declarations of Dr. Morgan Esperance. Dr. Goldberg has notified undersigned counsel that he will have an update on his timing today, and the government expects to file his supplemental declaration within the next week.

Respectfully submitted,

NATHANIEL MENDELL  
Acting United States Attorney

By: /s/ Robert E. Richardson  
ROBERT E. RICHARDSON  
KRISTEN A. KEARNEY  
Assistant United States Attorneys

**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system, will be served on counsel of record as listed in the NEF.

Dated: March 24, 2021

/s/ Kristen A. Kearney  
Kristen A. Kearney

# EXHIBIT A

BP-A1136  
FEB 21

## COVID-19 VACCINE CONSENT - INMATE

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

I have been provided a copy of the COVID-19 Vaccine **Emergency Use Authorization (EUA)** fact sheet dated 12/2020. I have had the opportunity to ask questions about the benefits and risks of vaccination, including if I am pregnant, breastfeeding or have a weakened immune system. I will agree to complete the number of vaccine doses as appropriate and indicated by the manufacturer.

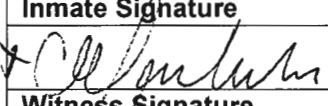
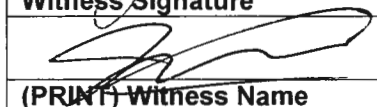
## Health Questions Prior to COVID-19 Vaccination (Check yes or no)

Yes	No	Health Questions
<input type="checkbox"/>	<input type="checkbox"/>	Are you sick today?
<input type="checkbox"/>	<input type="checkbox"/>	Have you ever had a severe allergy (i.e., anaphylaxis) or an immediate allergic reaction of any severity to any component of this vaccine or to a previous dose of this vaccine?
<input type="checkbox"/>	<input type="checkbox"/>	Have you ever had an immediate allergic reaction to any other vaccine/injectable therapy?
<input type="checkbox"/>	<input type="checkbox"/>	Have you had any other vaccinations in the last 14 days?
<input type="checkbox"/>	<input type="checkbox"/>	Have you received monoclonal antibody therapy for COVID-19 in the last 90 days?

☐ I consent to receive the COVID-19 vaccination.

Dose # (1 or 2)	Vaccine Manufacturer	Lot Number	Expiration Date	Route	Deltoid
1	Moderna	006B21A	4/14/21	IM	<input type="checkbox"/> Left <input type="checkbox"/> Right
Inmate Signature					Date
					3/18/2021
Administered by Signature					Date
					3/18/2021
Administered by (name/title)					
J. Howard, RN/QIIPC					

☒ I decline to receive the COVID-19 vaccination.

Inmate Signature	Date
	3/18/2021
Witness Signature	Date
	3/18/2021
(PRINT) Witness Name	
J. Howard, RN/QIIPC	

(PRINT) Inmate Name (Last, First)	Register Number	
TRENKLER, ALFRED	19377-038	
Institution	Unit	Work Assignment
FCC Tucson	A01-207L	

DOCUMENT VACCINE ADMINISTRATION IN BEMR FLOW SHEETS  
SCAN VACCINE CONSENT IN BEMR DOCUMENT MANAGER – VACCINATION CONSENT

# EXHIBIT B

## Cop-killing bomber's appeal hits delay

By Jessica Fargen | Sunday, December 6, 2009 | <http://www.bostonherald.com> | [Local Coverage](#)

The man convicted of building a bomb that killed a Boston police officer 18 years ago will wait another month before he knows how the government will respond to his latest bid to get out of prison.

Alfred W. Trenkler, 53, who was convicted in the 1991 Roslindale bombing that killed bomb squad cop Jeremiah J. Hurley, and injured officer Francis X. Foley, is serving a double life sentence. An accomplice, Thomas Shay Jr., was also convicted in the bomb plot, intended for Shay's father.

Prosecutors with U.S. Attorney Carmen Ortiz's Boston office have until Jan. 10 to respond to Trenkler's latest appeal, which is in front of the U.S. Court of Appeals for the 1st Circuit. The government's response was due Dec. 1, but Ortiz's office was granted a 40-day extension.

Trenkler supporter Morrison Bonpasse, a retired Maine attorney who wrote an unpublished book about the case, said he hopes Ortiz uses the time to reinvestigate the case, but he's doubtful.

"I've seen no indication the (extension) request is for that purpose," he said.

The Sunday Herald reported on Nov. 29 that Ortiz's office, at the request of high-ranking **Boston Police** Department officials, reviewed the case and Bonpasse's manuscript in September.

After the review, which has not been made public, Ortiz said she stood behind Trenkler's conviction. BPD Police Commissioner Edward Davis has said he stands behind Ortiz's decision. Bonpasse said he has written to the U.S. Attorney's Office to offer his cooperation but has had no response.

Trenkler, an electrical engineer, was recently moved from a federal prison in Ayer to a holding facility in Brooklyn, N.Y., en route to Tucson, Ariz. It is unclear what prompted Trenkler's sudden transfer, Bonpasse said.

**Article URL:** <http://www.bostonherald.com/news/regional/view.bg?articleid=1216965>

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